

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

FRANK J. KRZYWICKI,
Plaintiff,

No. 3:21-cv-00612 (SRU)

v.

KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY,
Defendant.¹

**ORDER GRANTING COMMISSIONER'S CONSENT MOTION FOR ENTRY OF
JUDGMENT WITH REVERSAL AND REMAND**

The defendant, Kilolo Kijakazi, Acting Commissioner of the Social Security Administration ("Commissioner"), has moved to enter judgment under sentence four of 42 U.S.C. § 405(g), with a reversal and remand of the cause to the Commissioner for further action. *See* Doc. No. 16. Counsel for the Commissioner represents that he has contacted counsel for Plaintiff, who consents to the relief sought in this motion.

Under sentence four of 42 U.S.C. § 405(g), I have the authority to enter a judgment with a reversal and remand of the cause to the Commissioner for further proceedings. *See Shalala v. Schaefer*, 509 U.S. 292, 297 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991). Remand for further development of the record is appropriate when gaps exist in the administrative record or when the administrative law judge ("ALJ") committed legal error. *See Parker v. Harris*, 626 F.2d 225, 235 (2d Cir. 1980).

¹ On or about July 9, 2021, Kilolo Kijakazi became the acting Commissioner of the Social Security Administration and is substituted for Andrew Saul as defendant in this action. *See* Fed. R. Civ. Proc. 25(d)(1). The Clerk of the Court is directed to update the docket accordingly.

Here, the Commissioner has determined that a remand of the case for additional administrative action is necessary. Upon remand, Plaintiff will be given an opportunity for a *de novo* hearing. Additionally, the Appeals Council will direct the ALJ to ensure that Plaintiff, if appearing *pro se*, is fully aware of: (1) his right to counsel; (2) the benefits of representation by counsel; and (3) the availability of free or low-cost representation. Finally, the ALJ will: (1) seek current medical source statements from Plaintiff's treating sources; (2) re-evaluate treating source opinions and explicitly consider the supportability and consistency of those opinions with the record as a whole; (3) obtain new vocational expert testimony; and (4) take any other necessary action to complete the administrative record and issue a new decision.

Accordingly, I **GRANT** the Commissioner's Consent Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g). The Clerk shall enter a judgment of reversal and remand under sentence four of 42 U.S.C. § 405(g), and shall remand the case to the Commissioner for further proceedings consistent with the motion.

So ordered.

Dated at Bridgeport, Connecticut, this 8th day of October 2021.

/s/ STEFAN R. UNDERHILL
Stefan R. Underhill
United States District Judge